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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,085	02/27/2004	Peter T. Halpin	HALP3001CJDB	4275
23364	7590	03/04/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			ANDREWS, MELVYN J	
			ART UNIT	PAPER NUMBER
			1742	
DATE MAILED: 03/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/787,085

Applicant(s)

HALPIN ET AL

Examiner

Melvyn J. Andrews

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-13 and 15-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22 is/are allowed.
- 6) ☒ Claim(s) 1-3,11-13,20 and 21 is/are rejected.
- 7) ☒ Claim(s) 5-10 and 15-19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### **Interview Summary**

The Interview Summary of 27 October 2004 is incorrect . It should have stated "Examiner did **not** agree that the abstract did not disclose cermet, grinding and smelting as claimed " This obvious from the Abstract which recites AB WC by grinding, smelting with Na<sub>2</sub>CO<sub>3</sub> and NH<sub>4</sub> as well as, ST cermet scrap . The error is regretted.

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Romanian patent No. RO 66833. The Romanian patent discloses a tungsten recovery from scrap cermet which comprises grinding and smelting which results in a composition consisting essentially of ground cermet which is to be smelted which anticipates the claimed feedstock.

### ***Response to Arguments***

Applicant's arguments filed December 14, 2004 have been fully considered but they are not persuasive. The effective date of the STN abstract is AN 1982.

Applicants arguments that the Romanian patent does not relate to cermet is not well taken because the STN abstract explicitly discloses cermet. Also the Romanian patent discloses "carbura de wolfram" which is translated PTO 04-1035 as tungsten carbide (page 2, line 15) tungsten carbide is a cermet. It is noted that Applicants'

Art Unit: 1742

Translation of "carbura de wolfram" by Stewart L. Colten is "**titanium** carbide" (page 2., lines 21-22) this is incorrect.

The STN abstract discloses W is recovered from scrap contg WC by grinding , smelting and processing the resulting Na tungstate by known methods.

The PTO 04-1035 Translation discloses on page 2, lines 15-20, a quantity of finely splintered alloy containing 60%-90% tungsten carbide which is introduced together with a mixture of ammonium nitrate and sodium carbonate into a rocking furnace, the finely splintered alloy containing 60%-90% tungsten carbide is equivalent to the "comminuted cermet".

Applicants arguments with respect to Applicants' Translation paragraphs bridging pages 1 and 2 that the Romanian patent does not even disclose the recovery of tungsten from cermet is not well taken because the Romanian waste alloy comprises tungsten carbide as evidenced by STN ABW is recovered from scrap contg. WC as well as PTO 04-1035 (page 2, lines 15-20) which states that a finely splintered hard alloy wire with a content of 60%-90% tungsten carbide is introduced into a rocking furnace is equivalent to a commuted cermet being smelted.

Applicants' arguments with respect to Applicants' Translation page 3, lines 10-12 that the wastes are used without prior comminution have been noted but is not persuasive of error because Applicants' Translation also discloses on page 3, Claim 1 "A method ... comprises breaking up (waste)"... and "the alloy is melted" which is equivalent to comminuted cermet being smelted since the alloy comprises **tungsten carbide** which is equivalent to cermet.

Applicants' opinion that the Colten Romanian patent does not disclose any smelting operation whatsoever is not well taken. The STN abstract discloses AB: W is recovered from scrap containing WC by grinding, smelting and processing the resulting Na tungsten.

Claims 2, 3, 12, 13 and 20 to 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Romanian patent No RO 66833 in view of Ray et al (US 6,423,204). The Romanian patent discloses a method comprising grinding and smelting scrap cermet to recover W but does not disclose the source of the scrap cermet as being an anode but Ray et al discloses a cermet inert anode may contain W (col.4, lines 32 to 40) it would have been obvious to one of ordinary skill in the art at the time the invention was made to treat an anode containing W by the Romanian process the motivation being to recover W a valuable metal.

Applicant's arguments filed December 14, 2004 have been fully considered but they are not persuasive. Applicants' argue that the Romanian patent does not disclose cermet this is not well taken because the PTO 04-1035 Translation discloses a finely splintered hard alloy wire with a content of 60%-90% tungsten carbide (page 2, lines 15-20) which is equivalent to cermet. Also the STN abstract discloses ST: cermet scrap.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Russian patent No 2040373. The Russian patent (DERWENT-ACC\_NO 1996-149677, DERWENT WEEK 199615) disclose the regeneration of spent nickel cermet electrodes comprising grinding to reclaim precious metal catalyst but does disclose an anode but it would have been obvious to one of ordinary skill in the art at the time the

invention was made to include spent anodes containing cermet as sources of spent electors being regenerated.

***Allowable Subject Matter***

Claims 5-10 and 15-19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The Romanian patent RO 66833, the Russian patent RU 2040373 and Ray et al (US 6,423,204). Do not disclose or suggest a composition which has been roasted under oxidizing conditions as in Claims 5 and 15, a fluxing additive as in Claims 6,7,16 and 17, a composition comprising ore concentrate as in Claims 8-10, 18 and 19.

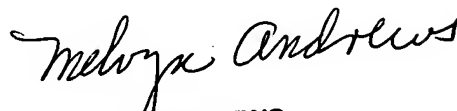
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvyn J. Andrews whose telephone number is (571)272-1239. The examiner can normally be reached on 8:00A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy V King can be reached on (571)272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1742

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJA  
March 2, 2005

  
**MELVYN ANDREWS**  
**PRIMARY EXAMINER**